

Social Media, Video Footage, and the Law:

What performing arts managers need to know



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Technology in the Arts is a series of services from the Center for Arts Management and Technology (CAMT), an applied research center at Carnegie Mellon University exploring ways in which arts managers can employ online technologies to more effectively meet their organizational goals and engage audiences.



2010

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Thanks!

CAMT would like to give special thanks to Amelia Northrup, David Dombrosky, Corwin Christie, Molly Hanse, Tara George, Casey-Rae Hunter, Jack Walsh, and David Gurwin for their efforts in preparing this report.

Cover photo credits:

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Pittsburgh Opera Resident Artists Shannon Kessler Dooley as Nanetta and James

Flora as Fenton in Falstaff. Photo Credit: © 2009 David Bachman Photography

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Foreword

Arts marketers who utilize new technology and social media must possess a working knowledge of intellectual property and union contracts. It can be tempting to leave legal issues solely up to the business manager, but arts marketers work with rapidly changing technologies on a daily basis. Therefore, they must know how current laws and emerging legal trends will affect their online marketing plans and be prepared to advocate within their organizations for obtaining distribution rights.

When I first began this paper, my intention was to outline the intellectual property issues art managers face when promoting their productions through video footage in the brave new world of social media. I had been reading a lot about fair use and file downloading and wondering how these problems, which seemed to manifest themselves primarily in the entertainment industry, were affecting the performing arts industry.

As I turned my focus to non-profit arts organizations, I realized two things. First, most theatres already have contracts with their artists that cover distribution of footage. In order to post footage online, arts managers have to know any agreements that may already exist regarding footage. They must also understand intellectual property and union contract issues to negotiate with intellectual property owners and make the case for the type of footage distribution they want to do. Secondly, I realized that not many people are talking about these issues openly or giving advice. There are plenty of social media experts out there who readily offer tips on how to streamline your web presence or develop your organization's optimal voice on Twitter. Many of us have received well-intentioned comments from a friend or board member about posting performance footage online. However, there are not a lot of people giving practical advice on how to avoid an ugly legal run-in with your dancers over streaming video or negotiate with a union to ensure you are able to post the video of the third movement of a string quartet to your Facebook page. Building audiences with performance footage is wonderful, of course, but the benefit is nullified when your efforts cause a lawsuit from the composer! The union politics of giving such advice is tricky, and therefore the people in the best position to discuss these issues openly are employed by non-partisan organizations like the Center for Arts Management and Technology. It seemed critical to address this need.

Originally, I wanted to provide a checklist for arts professionals dabbling in social media, but there are many variables that change depending on type of organization, which affiliations they have (LORT, etc.), what type of media is posted and where. A small dance company performing original work and sharing it online will be subject to entirely different rules compared to a large Shakespeare festival. This paper provides a summary overview of issues concerning copyright as it applies to online video, as well as a list of do's and don'ts.

-Amelia Northrup
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DISCLAIMER: This white paper is not intended to replace the advice of a good lawyer. If in doubt, ask a professional.

More Technology, More Problems

Online video technology moves fast. First there was YouTube, next Facebook and MySpace added video posting capability, and then sites like Livestream and Ustream made real-time, online streaming available to all. [Most recently](#) Twitter added video posting and YouTube announced that they would soon make streaming capability available to their content partners. Nearly every social media platform now presents a new opportunity to post performance footage online. Arts managers can (and often do) become overwhelmed by the sheer number of possible avenues for reaching audiences.

New technology has changed the landscape of arts marketing, but does not merely offer new opportunities to market a performance. The nature of the marketing message has changed. Whether it is a small clip of the work or an entire performance, social media offers the rare chance to show potential patrons the performances that artists and arts organizations bring to life on stage. Video technology gives the audience a flavor of the experience they can expect, but it also confronts marketers with new and unique challenges, including obtaining rights from creators and performers, acquainting new audiences with unfamiliar performers or genres, and converting online viewers to ticket buyers.

Specifically, restrictions on where and how performance footage may be recorded and distributed threaten to limit these platforms before users can fully realize their potential. Restrictions exist to protect the rights of artists and other copyright holders, from a show's creators to the designers to the unions who represent them, but they also have the potential to impede the marketing of the very production on which they are working. To an arts manager, whose job is to ensure the success of the production, it can be very thorny to balance the revenue needed to sustain the art with respect for the art and its creator. Indeed, performing arts managers face more legal issues than ever with artistic personnel because of new technologies and disputes involving intellectual property.

Video and Social Media

The prevalence of performance footage on the internet increases as technology changes and becomes more ubiquitous. Arts organizations see enormous potential for reaching audiences, not only through mass-produced season brochures but also through customized digital outlets, thereby more fully realizing their audience development goals.

[The NEA's 2009 Survey of Arts Participation](#) found “The variety of opportunities for arts engagement has grown exponentially... The role of digital media in those interactions has acquired a significance that cultural historians... are only beginning to investigate.”

Arts organizations are not only using social media to increase ticket sales; they also expect these tools to aid them in [diversifying their audiences](#). Accessibility to all community members is often one of the central tenets of a non-profit arts organization’s mission statement and a key component for many grants available to them. Arts managers often use social media with the hope of attracting younger audience members, although [recent research](#) by the Pew Research Center shows that the number of older Americans using social media is on the rise.

Social media has the potential to reach not only diverse audiences, but also people who may be more inclined to get out and attend a performance. According to a Pew study entitled [Social Isolation and New Technology](#), users of social media are more likely to have diverse “confidants” (their word for close friends) and are more likely to visit a public space like a library, park, or community center. With this finding comes the implication that social media sites encourage “word-of-mouth” advertising to broader, more diverse segments of the population.

How much is too much?

Arts professionals know the fundamental differences between live performance and video, but they fear that their audiences will not. They fear that giving the goods away via video, either in total or in part, will lead to declining ticket sales, especially when it comes to streaming or posting an entire performance. After all, why would people attend a live performance if they can see most or all of it

online? Felix Oberholzer-Gee of the Harvard Business School describes this “substitution vs. complement” dilemma as an historic one. Phonograph companies fought the mass production of radios for fear that no one would buy phonograph records if they gave the music away for free. Instead it increased sales. When people heard music on the radio, they wanted to buy the recording. In this way, the radio acted as a complement to records, rather than a substitute. The movie industry fought a similar battle over VCRs. Jack Valenti of the Motion Picture Association of America (MPAA) fought tirelessly to keep VCRs out of the hands of the American public, once declaring at a Congressional hearing, “the VCR is to the American film producer and the American public as the Boston strangler is to the woman home alone.” But in both cases, it appears that releasing video footage acts in much the same way as a free sample in the supermarket. It gives audiences a way to “try before they buy.”

“My aim is to strip away the veil of elitism. This is opera for the widest possible audience.”

**-Peter Gelb, General Manager
Metropolitan Opera**

The Metropolitan Opera’s Live in HD program is the perfect example. In 2006, General Manager Peter Gelb announced his plans to stream opera performances live to movie theatres across the country. At the press conference, he described the program as part of the Met’s new goal to “continue to faithfully serve our loyal audience, while concurrently reconnecting the Met to a broader public with a multi-faceted effort to restore the Met’s musical and theatrical dominance, excitement, and glamour.” He later said of the program, “My aim is to strip away the veil of elitism. This is opera for the widest possible audience.” The program was successful. According to the [Harvard Business Review Case Study](#) on the Metropolitan Opera’s Live in HD series, the Met saw ticket revenues soar after implementing the Live in HD program, selling out over 60 performances in the inaugural year of the simulcasts, compared with 20 the previous year.

[Misnomer Dance Theater](#) in Manhattan has embraced streaming video of an entire performance



Photo: Metropolitan Opera (Lincoln Center), auditorium seen from Family Circle in 2003. [Andreas Praefcke](#).

online. Artistic Director Chris Elam sees it as the ultimate outreach tool, not only for the organization, but for its artists, as well. Elam is launching his own choreographed work live through his Audience Engagement Platform, designed to “facilitate meaningful and productive two-way interaction between those who create art and those who appreciate it.” Currently, users can watch live or recorded performances through [Livestream](#). In a [panel](#) hosted by the Chronicle of Non-Profit Philanthropy, Elam said that the live streaming performances invite global community members to have experiences with Misnomer.

We conducted a live video-streaming of our recent New York dance production that was viewed online by 2,000 people, from 19 countries, including being viewed by a platoon in Iraq and projected on the wall of a coffee shop. During the showing, there were an average of 150 people web-chatting about the performance as they watched it in a window directly below the video player. We conducted a social media campaign in advance, and had numerous other sites syndicating the video in real-time. The total cost to us was approximately \$1,500, and that was mostly salaries. There is a proliferation of valuable experiments being conducted by many organizations and artists, especially as the costs of experimenting decreases.

Misnomer, like many modern dance companies, performs original work with non-union talent. However, arts organizations which are not in a similar situation may face significant hurdles in getting their work from the stage to the computer screen. Support within the industry for organizations that attempt to stream performances can be shaky. For example, the Metropolitan Opera faced concerns about the deterioration of the artistic quality of the operas, as well as how it would impact sales for regional opera companies.

Arts organizations face challenges not only in terms of industry support, but also from the performers and their unions. In performing arts organizations, the company’s success is inextricably tied to the performer’s success, and vice versa. A company with a good artistic product leads the company to bring in increased revenues and elevates their reputation with positive reviews. Performers

“There is a proliferation of valuable experiments being conducted by many organizations and artists, especially as the costs of experimenting decreases.”

-Chris Elam, Artistic Director
Misnomer Dance Theater

supported by effective marketing and buoyed by the reputation of a successful theatre company or production will be reviewed more often and seen by more people, leading to better jobs for them in the future. Both sides sometimes forget the symbiotic nature of this relationship between performers and managers when entering negotiations. Fear of artist exploitation and unwillingness to leverage artist work for the good of the production has led to unrealistic expectations of the other parties and failed union negotiations. Companies such as Pittsburgh Irish and Classical Theatre (PICT) and The Metropolitan Opera have attempted to negotiate with performers’ unions with different degrees of success. (See next page.)

A Tale of Two Arts Orgs

Arts organizations can have differing degrees of success when attempting to stream video footage of their performances. Whether through their sterling reputation or economic leverage, the Met was hugely successful in negotiating a new media agreement and in launching their Live in HD Series. But, as the Pittsburgh Irish and Classical Theatre learned, not every organization achieves such success.

In 2006, Peter Gelb, General Manager of the Metropolitan Opera, announced his plans to launch the Live in HD simulcast series. The Met would stream operas live from Lincoln Center to theatres all over the country. Additionally, the operas would be re-broadcast on PBS following the initial airing.

The Metropolitan Opera was able to negotiate the terms of the series with the Met's various unions. [Gelb said](#) of the negotiation, "The unions have kindly granted us control over the creation and distribution of our electronic content. This is a unique opportunity to raise our profile and grow our audience. Opera will now enter the digital era." Gelb made a new-media agreement with the Met's three largest unions, the orchestra (AFM Local 802); soloists, ballet, and chorus (AGMA); and stagehands (IATSE Local One). The Met [gained the rights](#) to redistribute performances through high-definition transmissions, the Internet, satellite radio, CDs and DVDs, and any other digital medium. [The agreement](#) allowed for the distribution of new productions, as well as the Met's archive of over 1,500 radio broadcasts. Union members receive royalties and residuals for these broadcasts.

David Lennon, president of Local 802 of the American Federation of Musicians, [said](#) "The collaborative efforts of all parties involved have resulted in an agreement that will provide Met musicians with a significant guarantee of additional revenue, while allowing the Met... to launch an ambitious new plan to revitalize the Metropolitan Opera through new and innovative media endeavors."

Stephanie Riso, Operations Director at Pittsburgh Irish and Classical Theatre (PICT), created Live and In Person and Live and Online (LIPLO) to distribute content digitally, similar to Chris Elam's Audience Engagement Platform. However, PICT, unlike Misnomer Dance Theater, produces mostly copyrighted materials and works with performer unions. PICT attempted to stream a production of "The History Boys" by Alan Bennett in August 2009, only to be blocked by sister unions Actors' Equity Association (AEA) and American Federation of Television and Radio Artists (AFTRA) when the two unions failed to reach an agreement.

Although Riso had already secured the playwright's permission, Actors' Equity initially would not allow the performance to be streamed at all. After several conversations on the matter, Actors' Equity encouraged Riso to contact AFTRA to negotiate a deal.

During the negotiation, Riso communicated with Pittsburgh AFTRA. The fee structure that AFTRA presented would have been cost-prohibitive for an organization with a budget just over \$1 million, so Riso and the AFTRA rep met with the actors and they agreed to waive their fees. Riso reflects: "All during the negotiation, I repeatedly asked if the AFTRA rep and Actors' Equity rep were in communication and was assured by the AFTRA rep that I could move ahead." Riso, believing that she now had the rights to distribute the performance, made the streaming event public with a press release. Soon after the release was made public, Actors' Equity refused to endorse the streamed performance, and AFTRA was forbidden to proceed due to union allegiance—despite the approval of the actors.

Regardless of their views on streaming a show in its entirety, showing video footage in the form of clips may benefit both artists and arts organizations in much the same way that movie trailers help movie sales. But how much footage can be used without devaluing the product? Arts organizations must decide for themselves what will increase revenue, enhance their image in the communities they serve, and make patrons come back to the theatre for more, rather than back to a website. As for legality, restrictions vary from organization to organization, depending on union affiliations, the desired usage, and the performance itself. With each production and use of footage, a different set of rules applies.

We all want the same thing.



How can we get it?

Public Domain

Copyright is one of the factors that may influence the legality of posting or streaming your organization's performances. Copyright exists to protect the economic rights of the author and to make sure the work is used only in a way that the owner allows. Before someone can use the work, copyright law requires that the owner of a work give permission to the distributor or publisher. If the copyright attached to the work has expired, however, it is considered to be in the public domain.

Arts managers who produce performances must know what is subject to [copyright law](#) and what is in the public domain. This depends principally upon when the work was created as well as if and when it was published. Under the 1998 Sonny Bono Copyright Term Extension Act, when a work was created after January 1, 1978, authors hold the copyright to their work for their natural life plus 70 years. The term of copyright for works created prior to that date may vary (see figure), but as of 2010, anything first created before 1922 is now in the public domain.

Usually when we think of intellectual property owners in terms of the performing arts, we think of the composer or writer of a dramatic, dance or musical work. We connect authorship with the person who put the words or music notes on a page. Under [U.S. law](#), once the words are entered on the page, the work becomes a piece of intellectual

Legal issues to consider when posting video footage of performances:

- Is the work in the public domain?
- Is the translation or adaptation in the public domain?
- How much of the work am I using? Is it enough to impact the market value of the work?
- Is the use allowable under existing contracts?
- Do my performers and/or designers belong to a union?
- How much will I need to pay to use the footage?

property with specific rights pertaining to copyright.

For many arts organizations that present or produce works published in the 19th century or before, the work will often be in the [public domain](#), allowing use without restriction. For example, the majority of the operas that most opera companies produce are too old for copyright law to apply. It is important to note that the translations for the purposes of subtitles may not be exempt.

For newer works or new translations of older works, the creators are entitled to compensation. For playwrights and composers, compensation is handled in the form of royalties. Often with more recent

or very popular plays, the [royalties and rights](#) are handled through a theatrical publishing company like Samuel French. Often an arts organization will not be able to negotiate the terms of the contract with theatrical publishing and licensing houses. Permission, in the form of a written contract, is central to copyright law and is essential to avoid liability. With new or commissioned works, arts managers must be prepared to negotiate a royalty contract to avoid legal difficulties later on.

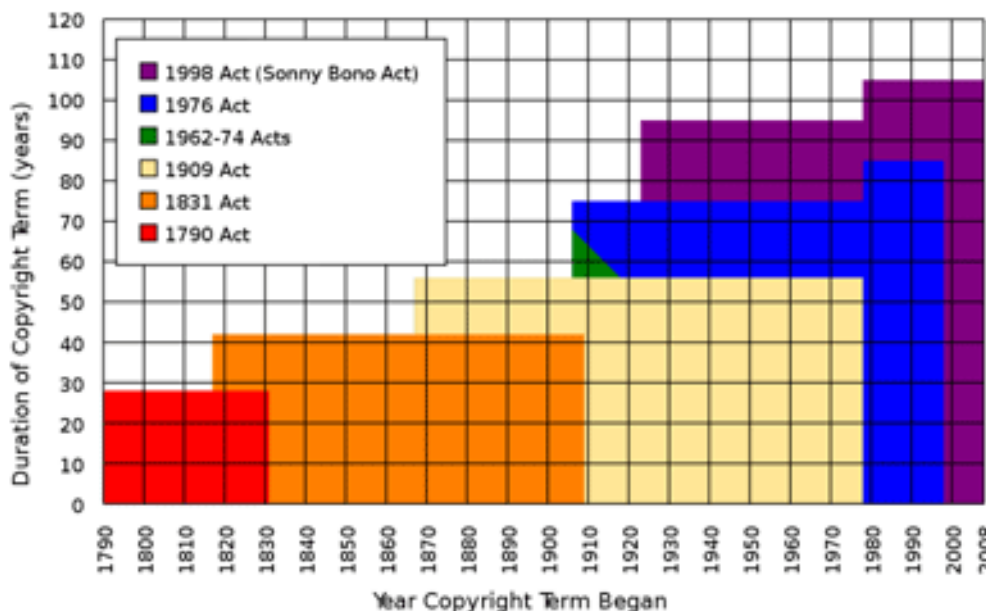


Figure: Copyright Term Limits graph, [Tom Bell](#).

Fair Use

Any decision regarding use of performance footage is a decision that involves copyright. Before the advent of the internet, technological and budget limitations restricted where video could be shown. Video footage was confined to TV commercials or news broadcasts. Fair use was clearly laid out in union contracts, because there were only so many possibilities. With the proliferation of new social media platforms and the abundance of arts organizations using them, the rules for using content become less clear.

If the work is not in the public domain, some uses of copyrighted material are acceptable without getting the permission of the owner. Known as “fair use,” this set of laws sets important limits on the reach of copyright. As previously explained, the copyright-holder (typically the creator[s] or his or her management) usually has the exclusive right to reproduce or record work or authorize others to do so through a license. Under fair use laws, copyrighted material may be used without a license in certain circumstances, depending on these four factors:

- The purpose and character of the use, including whether such use is of commercial nature or is for nonprofit educational purposes
- The nature of the copyrighted work
- The amount and substantiality of the portion used in relation to the copyrighted work as a whole
- The effect of the use upon the potential market for, or value of, the copyrighted work ([17 U.S.C.A. §101](#))

So, those factors really cleared things up, right? The four tenets of fair use are meant to be general guidelines. Depending on the circumstances, they are not always clear and can be even less clear in the non-profit arts industry. For example, the line between commercial and educational use can be blurry, because of nonprofit organizations’ 501(c)3 status. Most non-profit arts organizations are classified as educational. But arts organizations, like public universities, libraries and other 501(c)3’s, must advertise to attract patrons. In most license agreements, there is an explicit delineation between commercial and non-commercial use.

However, according to [Pat Aufderheide](#) of American University's Center for Social Media, “Fair use is just as viable within a commercial context as in a nonprofit context”; in other words, a nonprofit status does not give an organization permission to do whatever it wants. The four factors are meant to be balanced, meaning that even if one factor is clear, when balanced with the other three, the organization may not have a case for fair use.

Additionally, the “effect of the use upon the potential market” is not clear either. As discussed earlier, the true impact of streaming video on performance attendance is hotly contested. It may be difficult to prove that streaming your orchestra concert live will have any effect on future ticket sales, or whether that effect is positive or negative.

“Fair use is just as viable within a commercial context as in a nonprofit context.”

-Pat Aufderheide,
Center for Social Media, American University

How Many Authors Does It Take...?

With a novel, poem, or other literary work, it is easy to attribute authorship to one creator, but there are rights beyond the written word. Performed works have several underlying layers of authorship beyond the person attributed as its creator. Artists contribute to the production by creating intellectual property, and therefore essentially become authors themselves. Any art used in the show, such as set, costumes, and lighting design are the intellectual property of these additional artist/authors (lighting designers, technical directors, etc.). This is also often a problem in the entertainment industry. In his book *The Future of Ideas*, Lawrence Lessig describes the difficulties that movie producers have clearing rights for logos, artwork, even furniture.

Arts managers, specifically those involved in production and distribution of video footage, must be aware of artist contracts, especially clauses that specify royalties. When it comes to contracts, every individual artist/author warrants attention, specifically issues surrounding royalties. The International Association of Lighting Designers

(IALD), for example, includes royalties in their code of conduct, though the contract only specifies that the royalties shall be an “agreed portion of the income recovered by others from an IALD Member’s work or design.” Clearly, an arts manager will need to negotiate terms here and specify any and all possible uses of the lighting designer’s work.

How an arts organization employs the designers makes a difference, too. There are basically two types of people employed by a performing arts organization: people who come in on a per-show or seasonal basis (like a costume designer) and people that are employed more indefinitely (like a marketing associate). Legally, there is a distinction made between works for hire vs. works made by the employee in the course of regular employment (17 U.S.C.A. §101). “In-and out employees,” or those hired on a per-project basis, create works for hire and usually retain the rights to their work. Employees who are employed on an ongoing basis may create intellectual property in the course of their everyday work. It is usually considered property of the organization. This distinction is imperative for determining whether the work belongs to the organization or the designer.

Theatre managers in particular must also consider the contracts for composers of music not directly associated with the show as it is scripted, but hired to compose for the organization’s specific production. Usually, rights to license this music for non-dramatic public performance would be cleared through a music licensing agency like ASCAP, BMI, or SESAC. However, they do not license dramatic uses like plays or operas. Those licenses must be obtained from the copyright holders (usually music publishers). Music, images, and other media not directly associated with the show, but used for its promotion (such as music for a podcast or radio spot) must also be cleared.

Common Performing Arts Unions

The following websites provide valuable resources that arts professionals can use to find out current regulations on new media, what the unions are allowing other organizations to do, royalty amount information, and more.

Actor’s Equity Association (AEA)

<http://www.actorsequity.org/>

American Federation of Musicians (AFM)

<http://www.afm.org/>

American Federation of Television and Radio Artists (AFTRA)

<http://www.aftra.org/home.htm>

American Guild of Musical Artists (AGMA)

<http://www.musicalartists.org/>

International Association of Lighting Designers (IALD)

<http://www.iald.org/home.asp>

International Alliance of Theatrical Stage Employees (IATSE)

<http://www.iatse-intl.org/home.html>

Unions and Their Role in Protecting Performers’ Rights

Negotiations over using a performer’s image on film have been simplified in some ways by the presence of unions. Acceptable uses are outlined in the union’s general agreement, rulebook, or in some cases, contracts with individual arts organizations. For example, Actors’ Equity contracts have allowances for “b-roll,” which is approximately three minutes of footage that can be made publicly available, usually without royalties being paid to the performers. Many theatres are already distributing this footage through social media outlets to promote their shows. Without express permission from the owners or rules about this usage in the union rulebook, footage like this would probably fall under the auspices of fair use, but could still be called into question. If there is an agreement from the union, however, the footage clearly falls under fair use and would be less likely to

be the subject of a legal tussle.

Consequently, when legal issues emerge surrounding the performers in recordings or photos, it usually has more to do with contracts and union rules than with intellectual property, because permission is granted by the union, rather than individual artists. For example, an opera company may have no problem getting the rights to an opera, but to stream video, they would still have to negotiate with at least three unions: American Guild of Musical Artists (for the singers), American Federation of Musicians (for orchestra members and other instrumentalists), and American Federation of Television and Radio Artists (for the rights to use recordings made by those artists).

Unions like AFTRA and Actor's Equity [require](#) arts organizations to pay member artists either a flat or per-use fee to use excerpts from the show. Detailed instructions on what is and is not allowed and how specifically actors are to be compensated are available on each union organization's website. When negotiating an actor's contract for a show, it is advisable to plan for the range of publicity materials the organization could possibly use in as explicit terms as possible, even while planning several years ahead.

Unions are necessary to the American performer. They help the arts in America by ensuring that performers are treated fairly. In many ways, this enables them to continue to make a living at their craft. In terms of unions and intellectual property rights, performances are "owned" by very large groups of people. It makes sense to have them under contract to afford everyone the same rights. A performance is, at its core, a collective product. So, let the collective have the right to give permission, rather than individual artists, thereby protecting the other artists and the organization in case one performer refuses to grant rights. This makes for clearer guidelines, but more written contracts mean more restrictions.

Do's & Don'ts

- *Have clear contracts with every designer, director, or other independent contractor regarding use of the property they create.*
- *Plan in advance for the rights you may need for future promotional projects.*
- *Know who owns the rights to the work.*
- *Know your union rules on streaming video. (See previous page for a list of common performing arts unions.)*
- *Be prepared to advocate to your managing director and union leaders for your proposed use of video footage.*
- *Attribute, attribute, attribute!*
- *Don't use footage you don't have a contract for.*
- *Don't use footage in a way other than what you've discussed.*
- *Don't assume that designers, actors, or any other artist or author will automatically equate your organization's promotions with publicity for them.*
- *If you are talking to more than one union, don't assume that they are also in communication with one another.*
- *Don't plan for new media projects without having a conversation with your business manager about the rights attached to the production.*

It is the job of the arts manager to negotiate contracts that protect the economic interests of the theatre in two ways: (a) by allowing use of footage in a way that will increase patron engagement with the arts organization and (b) by pushing for a reasonable royalty amount for performers to allow that use of footage. Both performers and arts organizations must allow the continuation of the art form they have worked all their lives to support. New media means a new way of doing business for everyone.

Playing Catch-up

Arts marketers are growing increasingly savvy with their online tactics, but technology often moves faster than the law. Virtually all union rulebooks require compensation for depicting performers in a video, with the amount depending on the use of the footage. Many union and royalty agreements only allow for more traditional forms of media and do not address viral video, social networking, and other new and emerging technologies.

The [Actors' Equity Production Agreement](#) mentions websites, but not any other type of online media. They recently revised their agreement with LORT Theatres to include new media. However, the media covered in most other union rulebooks pre-dates the internet—avenues of publicity like talk shows and news programs. Recently, Actor's Equity has had to make new media contracts on a separate basis. However, neither the union contracts nor the U.S. statutes directly address different means of distribution, like streaming video on social networking sites. With no firm rules for new media outlined in union contracts, many organizations do not technically have the right to distribute that footage, but they are not expressly prohibited either.

Additionally, it is often difficult to negotiate with a union regarding the use of streaming video technology, especially for smaller organizations. Union rules apply to all union artists, regardless of the size or non-profit status of the organization employing them. Smaller organizations may have less leverage to negotiate with unions, while larger and more prestigious organizations like the Metropolitan Opera can successfully negotiate streaming video licenses more quickly. Further complicating matters, although royalty payments are scaled, many smaller arts organizations are nevertheless at a disadvantage to pay royalties to union members, making it difficult to market their shows with video footage. For example, in television commercials, royalties paid to union artists can sometimes outweigh the cost the organization would incur to broadcast a full performance. In a digital age where distribution is low-cost and channels are many, these regulations start to make less and less financial sense for small organizations. It seems

counterintuitive for arts organizations not to use footage in their advertising of the production they paid to produce.

While the union contracts present many difficulties to non-profit arts organizations, it is still imperative that organizations operate within their bounds, as well as within the bounds of federal statutes. Organizations should consider creating a digital media legal handbook for staff to ensure knowledge of and compliance with copyright law and union agreements. Organizations are already being [advised](#) by various business experts to prepare social media policy handbooks, but legal issues are often not addressed in these. With the many laws and contractual agreements involved with use of video footage, it is critical that they be included in these handbooks. By educating every staff member about the legal implications of using video footage, organizations can ensure that their practices regarding streaming video are legally sound. After all, less money spent on lawsuits means more money for great art.

Conclusion

New technology can be both a blessing and a curse for non-profit arts organizations. While online media outlets mean more ways to promote a show, the very nature of our artistic product has gotten in the way. Copyright laws and union contracts meant to protect creative expression and encourage innovation conversely restrict its promotion in the world of new media. While the fear of exploitation on the part of the performers is certainly reasonable, another fear looms large for arts organizations—declining audience numbers, decreased funding, and diminishing importance of traditional media outlets and the arts themselves in the lives of the American people. And that means less work for all performers. Beyond creating their work, performers and creators want their work to be successful and to be able to leave a legacy. If the theatre cannot afford to promote their work on a level that reaches the next generation of audiences, then there is little chance of that work being successful.

In the first 10 years of the 21st century, we've seen technology profoundly change the entertainment industry, notably the music industry. Although mainstream musical artists are able to thrive without the record companies, it is doubtful that the performing arts as we know them would be able to survive without arts organizations. Performing art forms like theater, opera, and ballet, by nature, have needs that can only be fulfilled by a company that can bring performers and designers together and can provide them with performance space, sets, costumes, props, lights, and, of course, an audience, as well as the means to obtain these necessities through fundraising and marketing.

It is short-sighted not to see the success of the performers and other creators as intrinsically tied to the success of the arts organization. Performers and organizations both strive for the same goal: to bring high-quality art to audiences. With changes in technology comes a change in the way our audiences think about their relationship to art and how they want to experience it. The question is, will the performing arts industry change with its audiences?

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